

REMARKS

The Examiner is thanked for indicating claims 44, 46, and 47 are allowable if rewritten in independent form. Applicants respectfully requests reconsideration of the above referenced patent application in view of the amendments and remarks set forth herein, and respectfully request that the Examiner withdraw all rejections. Claims 30, 39, 43 and 44 have been amended. No claims have been canceled. Claim 48 has been added. Thus, claims 30-48 are pending.

35 U.S.C. §102 Rejections

35 U.S.C. §102(b) Rejection over *Timm*

The Office Action rejects claims 30-47 under 35 U.S.C. §102(b) as being anticipated by Timm et al., USPN 6,055,268 (*Timm*). For some of the claims listed as rejected under 35 U.S.C. §102(b), no basis for rejection is provided by the Office Action. For the purpose of providing a full response, Applicants respond to a rejection of all claims 30-47 based on *Timm*.

The Office Action alleges that the reference discloses, *inter alia*, automatically aggregating multiple media access controllers (MACs), based, at least in part, on an identified communication capability of a remote device. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference, wherein the identical invention is shown in as complete detail as is contained in the claim. *See* M.P.E.P. §2131. For at least the following reasons, Applicants traverse the above rejection.

The rejected claims include independent claims 30, 39 and 43. Claim 30 is amended herein to recite in a salient portion (emphasis added):

“...automatically aggregating **multiple** media access controllers (MACs), based, at least in part, on the identified communication capability of the remote device, **the aggregated MACs to facilitate a network interface in communicating**

with the remote device, the communicating via a virtual data sub-channel within a physical data channel;...”

Each of independent claims 39 and 43 are also amended herein to recite similar limitations. The claim amendments are supported in the original disclosure at least by FIG. 2 and by the description thereof in paragraphs [0013]-[0016] of the specification.

In rejecting the claims, the Office Action states (page 2, last paragraph to page 3):

“Regarding claim 30, Timm [discloses?]...automatically aggregating multiple media access controllers (MACs), based at least in part, on the identified communication capability of the remote device, to establish a virtual data-sub channel within a physical data channel for communication between a communication interface and the remote device (fig. 7a; col. 7, lines 16 - 32; col. 18, lines 49 - 64; col. 23, lines 20 - 57; Timm discloses that after the initial channel probing period, **the MDSL modem at the subscriber-end** has determined the line code capability of the central office end modem and has a channel model for the downstream band and, similarly, the **MDSL modem at the central office end** has determined the line code capability of the subscriber-end modem and has a channel model for the upstream);” (Emphasis added)

Applicants note that the Office Action refers to each of the modems – one on the subscriber and one on the central office end – in the singular. Applicants agree with the Office Action that *Timm* discloses a **single** MDSL modem and the subscriber end and a **single** MDSL modem at the central office end.

Applicants respectfully submit that each of claims 30-47 are not anticipated by *Timm*, based at least on the failure of the reference to teach one or more limitations in each of independent claims 30, 39 and 43. More particularly, *Timm* fails to disclose automatically aggregating **multiple** media access controllers (MACs), based, at least in part, on the identified communication capability of the remote device, the aggregated MACs **to facilitate a network interface** in communicating with the remote device.

Timm describes a **single** modem on a subscriber-end negotiating a transmission rate with a **single** modem on the central office end. *See* col. 18, line 56 to col. 19, line 4. Assuming *arguendo* that one of these modems constitutes a network interface in

communicating with the other modem, which Applicants do not agree, the Office Action **fails** to offer any support in *Timm* for either of these single modems comprising or otherwise availing of an **aggregation of multiple MACs** to facilitate such communication. In the absence of further detail in the reference, a single modem negotiating a transmission rate in *Timm* fails to meet the requirement of M.P.E.P. §2131 that the reference disclose Applicants' invention in **as complete detail** as is contained in the rejected claim.

Applicants respectfully submit that *Timm* fails to disclose automatically aggregating multiple MACs, the aggregated MACs to facilitate a network interface in communicating with the remote device, as variously recited in each of independent claims 30, 39 and 43. In depending directly or indirectly from one of these independent claims, each of dependent claims 31-38, 40-42 and 44-47 incorporates at least one limitation not taught by *Timm*. Accordingly, the reference fails to anticipate each of the above rejected claims, and Applicants request that the 35 U.S.C. §102(b) rejection of claims 30-47 be withdrawn.

35 U.S.C. §103(a) Rejections

35 U.S.C. §103(a) Rejection over *Timm*, “802.3ae 5 Criteria” and “XAUI/XGXS Proposal”

The Office Action rejects claims 38, 42 and 45 under 35 U.S.C. §103(a) as being obvious in light of *Timm* and further in view of “802.3ae 5 Criteria” and “XAUI/XGXS Proposal” presentation at IEEE 802.3 10 Gb/s Task Force May 2000 Interim Meeting Plenary Week, July 11-12, 2000. The above rejection relies in part on the previously-discussed 35 U.S.C. §102(b) rejection of parent claims 30, 39 and 43. For at least the following reasons, Applicants traverse the above rejection.

As discussed above, *Timm* fails to disclose at least one limitation in each of independent claims 30, 39 and 43 – e.g. automatically aggregating **multiple** media access controllers (MACs), based, at least in part, on the identified communication capability of the remote device, **the aggregated MACs to facilitate a network interface in communicating**

with the remote device, the communicating via a virtual data sub-channel within a physical data channel. In rejecting the above claims for obviousness, the Office Action does not allege that any combination of *Timm*, “802.3ae 5 Criteria” and “XAUI/XGXS Proposal” teaches or suggests this distinguishing limitation of parent claims 30, 39 and 43.

Applicants respectfully submit that the references do not teach or suggest this distinguishing limitation. In depending from one of these independent claims, each of the above rejected claims incorporates at least one limitation which is not taught or suggested by the references. For at least the foregoing reasons, the references fail to render the above claims obvious, and Applicants request that the above 35 U.S.C. §103(a) rejection of claims 38, 42 and 45 based on *Timm*, “802.3ae 5 Criteria” and “XAUI/XGXS Proposal” be withdrawn.

New Claims

Applicants have added new claim 48, which depends upon claim 43. It is Applicants’ understanding that new claim 48 is allowable in view of the references cited in the Office Action. New claim 48 is supported in the original disclosure at least by original claim 27, by FIG. 1 and 2, and in the specification by paragraphs [0005] and [0019].

CONCLUSION

For at least the foregoing reasons, Applicants submit that the objections and rejections have been overcome. Therefore, claims 30-48 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account No. 02-2666.

Respectfully submitted,
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